

Honolulu, Hawaii

APR 04 2025

RE: H.B. No. 359  
H.D. 2  
S.D. 2

Honorable Ronald D. Kouchi  
President of the Senate  
Thirty-Third State Legislature  
Regular Session of 2025  
State of Hawaii

Sir:

Your Committee on Judiciary, to which was referred H.B.  
No. 359, H.D. 2, S.D. 1, entitled:

"A BILL FOR AN ACT RELATING TO COVERED OFFENDER  
REGISTRATION,"

begs leave to report as follows:

The purpose and intent of this measure is to:

- (1) Amend the offense of sexual assault in the fourth degree to exclude a person who knowingly engages in or causes sexual contact with a minor who is at least sixteen years old and the person is contemporaneously acting in a professional capacity to instruct, advise, or supervise the minor, if the person is younger than twenty-four years of age at the time of the offense;
- (2) Amend covered offender registration laws by expanding the definition of "sexual offense" to include additional sexual offenses from the Penal Code;
- (3) Provide that the exception to covered offender registry public access requirements for a first-time misdemeanor offense does not apply when the covered offense was committed against a minor;



- (4) Clarify that a person who is required to report their location of residence in person every year under the covered offender registration requirements shall report during the thirty-day period following the offender's birthday, rather than from the offender's actual date of birth; and
- (5) Specify how certain covered offenses are to be tiered for purposes of seeking termination of registration requirements.

Your Committee received testimony in support of this measure from the Hawaii State Commission on the Status of Women and one individual.

Your Committee received testimony in opposition to this measure from the Department of the Attorney General, Crime Victim Compensation Commission, and one individual.

Your Committee received comments on this measure from the Department of the Prosecuting Attorney for the City and County of Honolulu, Honolulu Police Department, and Sex Abuse Treatment Center.

Your Committee finds that existing law contains a loophole which leaves minor victims vulnerable to sexual predators who use their position of trust to perpetrate sexual abuse. Typically, existing law requires convicted sex offenders to register with the Hawaii sex offender registry, which protects local communities by providing the public with relevant information about the presence of convicted sex offenders. However, under existing law, offenders who commit the offense of sexual assault in the fourth degree against certain minors while acting in a position of trust and power are not required to publicly disclose registration information. This measure will close this loophole by extending the sex offender registration requirement to individuals who, while acting in a professional capacity, sexually assault minors aged sixteen or seventeen.

Your Committee notes the concerns raised by the Department of the Attorney General, specifically that section 2 of this measure may subject the measure to a constitutional challenge under article III, section 14 of the Hawaii State Constitution, which



requires that each law embrace but one subject, which shall be expressed in its title. This measure's title embraces only one subject, "the Covered Offender Registration", but section 2 of this measure includes a provision to a criminal offense, which could subject the measure to challenge on the grounds that it does not meet the constitutional single-subject and title requirement. Therefore, your Committee believes that amendments to this measure are necessary.

Accordingly, your Committee has amended this measure by:

- (1) Deleting language that would have amended the offense of sexual assault in the fourth degree to exclude a person who knowingly engages in or causes sexual contact with a minor who is at least sixteen years old and the person is contemporaneously acting in a professional capacity to instruct, advise, or supervise the minor, if the person is younger than twenty-four years of age at the time of the offense; and
- (2) Making technical, nonsubstantive amendments for the purposes of clarity and consistency.

As affirmed by the record of votes of the members of your Committee on Judiciary that is attached to this report, your Committee is in accord with the intent and purpose of H.B. No. 359, H.D. 2, S.D. 1, as amended herein, and recommends that it pass Third Reading in the form attached hereto as H.B. No. 359, H.D. 2, S.D. 2.

Respectfully submitted on  
behalf of the members of the  
Committee on Judiciary,



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KARL RHOADS, Chair



The Senate  
Thirty-Third Legislature  
State of Hawai'i

**Record of Votes  
Committee on Judiciary  
JDC**

Bill / Resolution No.:* <b>HB 359 HD2 SDI</b>	Committee Referral: <b>HHS, JDC</b>	Date: <b>3/25/25</b>		
<input type="checkbox"/> The Committee is reconsidering its previous decision on this measure. If so, then the previous decision was to: _____				
The Recommendation is: <div style="display: flex; justify-content: space-between; align-items: flex-start;"> <div style="text-align: center;"> <input type="checkbox"/> Pass, unamended 2312         </div> <div style="text-align: center;"> <input checked="" type="checkbox"/> Pass, with amendments 2311         </div> <div style="text-align: center;"> <input type="checkbox"/> Hold 2310         </div> <div style="text-align: center;"> <input type="checkbox"/> Recommit 2313         </div> </div>				
<b>Members</b>	<b>Aye</b>	<b>Aye (WR)</b>	<b>Nay</b>	<b>Excused</b>
RHOADS, Karl (C)	✓			
GABBARD, Mike (VC)				✓
CHANG, Stanley	✓			
SAN BUENAVENTURA, Joy A.			✓	
AWA, Brenton				✓
TOTAL	2		1	2
Recommendation: <div style="display: flex; justify-content: space-around; margin-top: 5px;"> <input checked="" type="checkbox"/> Adopted           <input type="checkbox"/> Not Adopted         </div>				
Chair's or Designee's Signature: <div style="text-align: center; margin-top: 10px;"> </div>				
<div style="display: flex; justify-content: space-between; font-size: small;"> <div>Distribution:</div> <div>Original</div> <div>Yellow</div> <div>Pink</div> <div>Goldenrod</div> </div> <div style="display: flex; justify-content: space-between; font-size: x-small; margin-top: 2px;"> <div>File with Committee Report</div> <div>Clerk's Office</div> <div>Drafting Agency</div> <div>Committee File Copy</div> </div>				

\*Only one measure per Record of Votes